

- ☒ Federal Pass Through  
Grant Funds CFDA #20.600  
☐ State Grant Funds

Misc. Contract Number: \_\_\_\_\_  
Charge Number: \_\_\_\_\_  
PIN: 17460005345004

### TEXAS TRAFFIC SAFETY PROGRAM GRANT AGREEMENT

THE STATE OF TEXAS \*\*

THE COUNTY OF TRAVIS \*\*

THIS AGREEMENT IS MADE BY and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the Department, and the City of College Station, hereinafter called the Subgrantee, and becomes effective when fully executed by both parties. For the purpose of this agreement, the Subgrantee is designated as a(n) local government.

**AUTHORITY:** Texas Transportation Code, Chapter 723, the Traffic Safety Act of 1967, and the Highway Safety Plan for the following Fiscal Year(s) 2003.

#### WITNESSETH

**Project Title:** Comprehensive/Selective Traffic Enforcement Program

**Brief Project Description:** To reduce driver risk taking behavior by combining alcohol, occupant protection, speed, and moving violation enforcement efforts to reduce injuries and fatalities on the roadways and within intersections.

#### AGREEMENT

**Grant Period:** The Grant becomes effective on October 1, 2002, or on the date of final signature, whichever is later, and ends on September 30, 2003.

**Maximum Amount Eligible for Reimbursement:** \$63,030. Cost incurred after the end of a fiscal year cannot be reimbursed without prior written approval from the Department. (See also **Article 3, Limitation of Liability**, in the **Standard Provisions**)

**Project Year: 1 Estimated Budget:**

	<u>TxDOT</u>	<u>State/Local/Other</u>	<u>Program Income</u>
Labor	\$ <u>63,030</u>	<u>0</u>	<u>0</u>
Other Direct Cost	<u>                    </u>	<u>                    </u>	<u>                    </u>
Indirect/F&A Cost	<u>                    </u>	<u>                    </u>	<u>                    </u>
TOTAL	\$ <u>63,030</u>	<u>0</u>	<u>0</u>

**Project Year: \_\_ Estimated Budget:**

	<u>TxDOT</u>	<u>State/Local/Other</u>	<u>Program Income</u>
Labor	\$ <u>                    </u>	<u>                    </u>	<u>                    </u>
Other Direct Cost	<u>                    </u>	<u>                    </u>	<u>                    </u>
Indirect/F&A Cost	<u>                    </u>	<u>                    </u>	<u>                    </u>
TOTAL	\$ <u>0</u>	<u>0</u>	<u>0</u>

**Project Year: \_\_ Estimated Budget:**

	<u>TxDOT</u>	<u>State/Local/Other</u>	<u>Program Income</u>
Labor	\$ <u>                    </u>	<u>                    </u>	<u>                    </u>
Other Direct Cost	<u>                    </u>	<u>                    </u>	<u>                    </u>
Indirect/F&A Cost	<u>                    </u>	<u>                    </u>	<u>                    </u>
TOTAL	\$ <u>0</u>	<u>0</u>	<u>0</u>

In addition to the **Standard Provisions** of the Agreement that follow, the following attachments are incorporated as indicated as a part of the Grant Agreement:

- ☒ Attachment A, Project Description  
☒ Attachment B, Project Budget  
☒ Attachment C, Standard Assurances  
☒ Attachment D, Debarment Certification  
☐ Attachment E, Lobbying Certification (required if amount payable is \$100,000 or more)  
☐ Attachment F, Child Support Statement

Charge Number:

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED DUPLICATE COUNTERPARTS TO EFFECTUATE THIS AGREEMENT.

**THE SUBGRANTEE**

**THE STATE OF TEXAS**

City Of College Station  
[Legal Name of Agency]

Executed by and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out orders, established policies or work programs approved and authorized by the Texas Transportation Commission.

By \_\_\_\_\_  
[Authorized Signature]

By \_\_\_\_\_  
District Engineer  
Texas Department of Transportation

Ron Silvia, Mayor  
[Name and Title]

Date \_\_\_\_\_

Date \_\_\_\_\_

ATTEST: \_\_\_\_\_

By \_\_\_\_\_  
Director, Traffic Operations Division

\_\_\_\_\_  
[Signature]

Date \_\_\_\_\_

Connie Hooks, City Secretary  
[Name and Title]

Under authority of Ordinance or Resolution  
Number (for local governments):  
  
\_\_\_\_\_

**Mailing Addresses**

For the purpose of this agreement, the following addresses shall be used to mail all required notices, reports, claims, and correspondence. (NOTE: For warrants (checks), the address indicated by the mail code, last three digits of the PIN on page 1, shall be used. If that address is not appropriate for warrants, please change the mail code accordingly and notify TxDOT of any changes.):

For Subgrantee:	For Texas Department of Transportation:
Name: <u>Michael R. Mathews</u>	<u>1300 N. Texas Avenue</u>
Title: <u>Lieutenant</u>	<u>Bryan, Texas 77803</u>
Organization: <u>College Station Police Department</u>	Attention: <u>Sara Chamberland</u>
Address: <u>P.O. Box 9960</u>	_____
<u>College Station, Texas 77842</u>	_____
Phone: <u>979-764-3651</u>	_____
Fax: <u>979-764-3468</u>	_____
E-mail: <u>mmathews@ci.college-station.tx.us</u>	_____

## STANDARD PROVISIONS

### ARTICLE 1. RESPONSIBILITIES OF THE PARTIES

The Subgrantee shall undertake and complete the project as described in Attachment A, Approved Project Description, and in accordance with all terms and conditions included hereinafter. The Department shall provide assistance as appropriate and as specified in said Attachment A.

### ARTICLE 2. COMPENSATION

- A. The method of payment for this agreement will be based on actual costs incurred up to and not to exceed the limits specified in Attachment B, Approved Project Budget. The amount included in the project budget will be deemed to be an estimate only and a higher amount can be reimbursed, subject to the conditions specified in paragraph B hereunder. If Attachment B, Approved Project Budget, specifies that costs are based on a specific rate, per-unit cost, or other method of payment, reimbursement will be based on the specified method.
- B. All payments made hereunder will be made in accordance with Attachment B, Approved Project Budget. The Subgrantee's expenditures may not exceed any budget category in the Approved Project Budget by an amount greater than 5% of the total reimbursable amount of the budget without a written agreement amendment. However, the Subgrantee must provide written notification to the Department of a change of 5% or less, prior to payment of the Request For Reimbursement that includes the change, indicating the amount and percent change and the reason(s) for it. The maximum amount payable shall not be increased as a result of exceeding a budget category without a written grant amendment.
- C. To be eligible for reimbursement under this agreement, a cost must be incurred in accordance with Attachment B, Approved Project Budget, within the time frame specified in Grant Period on page 1.
- D. Payment of costs incurred under this agreement is further governed by one of the following cost principles, as appropriate, outlined in the Federal Office of Management and Budget (OMB) Circulars:
  - A-21, Cost Principles for Educational Institutions;
  - A-87, Cost Principles for State and Local Governments; or,
  - A-122, Cost Principles for Nonprofit Organizations.
- E. The Subgrantee agrees to submit monthly or quarterly requests for reimbursement, as designated in Attachment A, within thirty (30) days after the end of the billing period. The Subgrantee will use billing statements acceptable to the Department. The original billing statement and one copy is to be submitted to the address shown on page 2 of this agreement.
- F. The Subgrantee agrees to submit the final request for payment under this agreement within sixty (60) days of the end of the grant period.
- G. The Department will exercise all good faith to make payments within thirty days of receipt of properly prepared and documented requests for payment. Payments, however, are contingent upon the availability of appropriated funds.
- H. Project agreements supported with federal funds are limited to the length of the agreement period and usually do not receive extended funding beyond three years. If both the Department and the Subgrantee agree that the project has demonstrated merit or has potential long-range benefits, the Subgrantee may apply for funding assistance beyond the three year limit. To be eligible, the Subgrantee must have a cost assumption plan by the end of the first twelve months. This plan will include a schedule for phasing in funding from its own resources and the phasing out of funding support from the Department. All plans must be approved by the Department before any extension beyond the three year limit will be granted. Preference will be given to those projects for which the Subgrantee has assumed some cost sharing by the end of the first twelve months, and to those which propose to assume the largest percentage of subsequent project costs. Certain categories of funds may be exempted by the federal government from the time limit requirement. Unless exempted, all federally-funded agreements are considered to be subject to the time limit provision. Funding support for all state-funded projects will be limited to the term of the agreement. Any extension beyond that time will be negotiated on a case-by-case basis.

### **ARTICLE 3. LIMITATION OF LIABILITY**

Because funds are authorized on a fiscal year basis only, payment of costs incurred hereunder is contingent upon the availability of funds.

If at any time during the agreement period the Department determines that there is insufficient funding to continue the project, the Department shall so notify the Subgrantee, giving notice of intent to terminate the agreement. Such termination will be conducted in such a manner that will minimize disruption to the Subgrantee and the Department, and as further specified in General Provision G9, Termination.

The Subgrantee, if other than a State agency, shall be responsible for settlement of any and all claims and lawsuits by third parties arising from or incident to the Department's non-payment of the Subgrantee's claim under this agreement. The Subgrantee expressly acknowledges that its responsibility includes the payment of all damages, expenses, penalties, fines, costs, charges, and attorney fees, if the claims or lawsuits are based upon the Department's non-payment of claims submitted under this agreement. The Subgrantee shall defend any suits brought upon all such claims and lawsuits and pay all costs and expenses incidental thereto, but the Department shall have the right at its option to participate in the defense of any suit, without relieving the Subgrantee of any obligation hereunder.

### **ARTICLE 4. AGREEMENT AMENDMENTS**

If at any time during the agreement period the Department determines that additional funds are needed to continue the project and the maximum amount payable is insufficient, a written amendment is to be executed to authorize additional funds, if the Department and the Subgrantee determine to continue project funding.

Additionally, any changes in the agreement period, agreement terms or responsibilities or the parties hereto shall be enacted by written amendment executed by both parties.

The amendment shall be agreed upon by the parties to this agreement and shall state the change to the mutual satisfaction of the parties. In no event will the agreement period be extended unless a written amendment is executed before the completion date specified in Article 1.

### **ARTICLE 5. ADDITIONAL WORK**

If the Subgrantee is of the opinion that any work it has been directed to perform is beyond the scope of this agreement and constitutes additional work, the Subgrantee shall promptly notify the Department in writing. In the event that the Department finds that such work does constitute additional work, the Department shall so advise the Subgrantee and provide compensation for doing this work on the same basis as the original work. If the compensation for the additional work will cause the maximum amount payable to be exceeded, a written amendment will be executed. Any amendment so executed must be approved within the agreement period specified on the cover page to this Grant.

### **ARTICLE 6. CHANGES IN WORK**

When the approved project description requires a completed work product, the Department will review the work as specified in the approved project description. If the Department finds it necessary to request changes in previously satisfactorily completed work or parts thereof, the Subgrantee will make such revisions as requested and directed by the Department. Such work will be considered as additional work and subject to the requirements established in Article 5.

If the Department finds it necessary to require the Subgrantee to revise completed work to correct errors appearing therein, the Subgrantee shall make such corrections and no compensation will be paid for the corrections.

## **ARTICLE 7. GENERAL TERMS AND CONDITIONS**

### **G1. Indemnification**

To the extent permitted by law, the Subgrantee, if other than a State agency, shall save harmless the Department from all claims and liability due to the acts or omissions of the Subgrantee, its agents or employees. The Subgrantee also agrees to save harmless the Department from any and all expenses, including attorney fees, all court costs and awards for damages, incurred by the Department in litigation or otherwise resisting such claims or liabilities as a result of any activities of the Subgrantee, its agents or employees.

Further, to the extent permitted by law, the Subgrantee, if other than a State agency, agrees to protect, indemnify, and save harmless the Department from and against all claims, demands and causes of action of every kind and character brought by any employee of the Subgrantee against the Department due to personal injuries and/or death to such employee resulting from any alleged negligent act, by either commission or omission on the part of the Subgrantee or the Department.

### **G2. Inspection of Work**

*The Department and, when federal funds are involved, the U. S. Department of Transportation, and any authorized representative thereof, have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed.*

If any inspection or evaluation is made on the premises of the Subgrantee or a subcontractor, the Subgrantee shall provide and require the subcontractor to provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

### **G3. Disputes and Remedies**

The Subgrantee shall be responsible for the settlement of all contractual and administrative issues arising out of procurement entered in support of agreement work.

Disputes concerning performance or payment shall be submitted to the Department for settlement with the Executive Director acting as referee.

This agreement shall not be considered as specifying the exclusive remedy for any dispute or violation or breach of agreement terms, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

### **G4. Noncollusion**

The Subgrantee warrants that it has not employed or retained any company or person, other than a bona fide employee working for it, to solicit or secure this agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this agreement. If the Subgrantee breaches or violates this warranty, the Department shall have the right to annul this agreement without liability or, in its discretion, to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, brokerage fee, gift, or contingent fee.

## **G5. Reporting**

Not later than thirty days after the end of each reporting period, as designated in Attachment A, the Subgrantee shall submit a performance report using forms provided or approved by the Department. The performance report will include as a minimum (1) a comparison of actual accomplishments to the objectives established for the period, (2) reasons why established objectives were not met, if appropriate, and (3) other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

The Subgrantee shall submit the final performance report within 30 days after completion of the grant.

The Subgrantee shall promptly advise the Department in writing of events which have a significant impact upon the agreement, including:

1. Problems, delays, or adverse conditions which will materially affect the ability to attain program objectives, prevent the meeting of time schedules and objectives, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken or contemplated and any Department or Federal assistance needed to resolve the situation.
2. Favorable developments or events that enable meeting time schedules and objectives sooner than anticipated or producing more work units than originally projected.

## **G6. Records**

The Subgrantee agrees to maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred and work performed hereunder, said books, documents, papers, accounting records, and other evidence pertaining to costs incurred and work performed hereinafter called the records, and shall make such records available at its office at all reasonable times for the time period authorized in Article 1, Contract Period. The Subgrantee further agrees to retain said records for four years from the date of final payment of contract costs incurred hereunder.

Duly authorized representatives of the Texas State Auditor, the Texas Department of Transportation, the United States Department of Transportation, and the Office of the Inspector General shall have access to the records at reasonable times during the period of the agreement and the four years retention period for the purpose of making audits, excerpts, transcriptions, and other examinations. This right of access is not limited to the four year period but shall last as long as the records are retained. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the four year retention period, the subgrantee shall retain the records until completion of the action and resolution of all issues which arise from it.

## **G7. Audit**

The Subgrantee shall comply with the requirements of the Single Audit Act of 1984, Public Law (PL) 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133, "Audits of States, Local Governments, and Other Non-Profit Organizations."

## **G8. Subcontracts**

Any subcontract rendered by individuals or organizations not a part of the Subgrantee's organization shall not be executed without prior authorization and approval of the subcontract by the Department.

Subcontracts in excess of \$25,000 shall contain all required provisions of this agreement. No subcontract will relieve the Subgrantee of its responsibility under this agreement.

## **G9. Termination**

The Department may terminate this agreement at any time before the date of completion whenever it is determined that the Subgrantee has failed to comply with the conditions of the agreement. The Department shall give written notice to the Subgrantee at least seven days prior to the effective date of termination and specify the effective date of termination and the reason for termination.

If both parties to this agreement agree that the continuation of the agreement would not produce beneficial results commensurate with the further expenditure of funds, the parties shall agree upon the termination conditions, including the effective date and the portion to be terminated.

Upon termination of this agreement, whether for cause or at the convenience of the parties hereto, all finished or unfinished documents, data, studies, surveys, reports, maps, drawings, models, photographs, etc. prepared by the Subgrantee shall, at the option of the Department, become the property of the Department.

The Department shall compensate the Subgrantee for those eligible expenses incurred during the agreement period which are directly attributable to the completed portion of the work covered by this agreement, provided that the work has been completed in a manner satisfactory and acceptable to the Department. The Subgrantee shall not incur new obligations for the terminated portion after the effective date of termination.

Except with respect to defaults of subcontractors, the Subgrantee shall not be in default by reason of any failure in performance of this agreement in accordance with its terms (including any failure by the Subgrantee to progress in the performance of the work) if such failure arises out of causes beyond the control and without the default or negligence of the Subgrantee. Such causes may include but are not limited to acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. In every case, however, the failure to perform must be beyond the control and without the fault or negligence of the Subgrantee.

## **G10. Gratuities**

Texas Transportation Commission policy mandates that employees of the Department shall not accept any benefits, gifts or favors from any person doing business with or who reasonably speaking may do business with the Department under this agreement. The only exceptions allowed are ordinary business lunches and items that have received the advanced written approval of the Department's Executive Director.

Any person doing business with or who reasonably speaking may do business with the Department under this agreement may not make any offer of benefits, gifts or favors to Department employees, except as mentioned hereabove. Failure on the part of the Subgrantee to adhere to this policy may result in termination of this agreement.

## **G11. Compliance With Laws**

The Subgrantee shall comply with all Federal, State and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this agreement, including, without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Subgrantee shall furnish the

The Subgrantee agrees to comply with Executive Order 11246 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor Regulations (41 CFR 60).

### **G13. Ownership of Documents**

Upon completion or termination of this agreement, all documents prepared by the Subgrantee or furnished to the Subgrantee by the Department shall be delivered to and become the property of the Department. All sketches, photographs, calculations, and other data prepared under this agreement shall be made available, upon request, to the Department without restriction or limitation of their further use.

### **G14. Resources**

The Subgrantee warrants that it presently has adequate qualified personnel in its employment to perform the work required under this agreement, or will be able to obtain such personnel from sources other than the Department.

Unless otherwise specified, the Subgrantee shall furnish all equipment, materials, and supplies required to perform the work authorized herein.

All employees of the Subgrantee shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of the Subgrantee who, in the opinion of the Department, is incompetent, or whose conduct becomes detrimental to the work, shall immediately be removed from association with the project.

### **G15. Property Management**

The Subgrantee shall establish and administer a system to control, protect, preserve, use, maintain, and dispose of any property furnished to it by the Department or purchased pursuant to this agreement in accordance with its own property management procedures, provided that the procedures are not in conflict with the Department's property management procedures or property management standards, as appropriate, in:

- 49 CFR 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," or,
- OMB Circular A-110, "Uniform Requirements for Grants to Universities, Hospitals, and Other Nonprofit Organizations."

### **G16. Procurement Standards**

The Subgrantee shall maintain procurement standards which meet or exceed the requirements, as appropriate, of:

- 49 CFR 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," or,
- OMB Circular A-110, "Uniform Requirements for Grants to Universities, Hospitals, and Other Nonprofit Organizations."

### **G17. Insurance**

When directed by the Department, the Subgrantee, if other than a State agency, shall provide or shall require its subcontractors to secure a policy of insurance in the maximum statutory limits for tort liability, naming the Department as an additional insured under its terms. When so directed, the Subgrantee shall provide or shall require its subcontractor to furnish proof of insurance on TxDOT Form 20.102 (12/91) to the Department, and shall maintain the insurance during the grant period established in Article I.

### **G18. Equal Employment Opportunity**

The Subgrantee agrees to comply with Executive Order 11246 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor Regulations (41 CFR 60).



## **G19. Nondiscrimination**

During the performance of this agreement, the Subgrantee, its assigns and successors in interest, agrees as follows:

1. **Compliance with Regulations:** The Subgrantee shall comply with the regulations relative to nondiscrimination in federally assisted programs of the U.S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21 and Title 23, Code of Federal Regulations, Part 710.405(b), as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this agreement.
2. **Nondiscrimination:** The Subgrantee, with regard to the work performed by it during the agreement, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Subgrantee shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 and Part 710.405(b) of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontracts, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the Subgrantee for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Subgrantee of the Subgrantee's obligations under this agreement and the Regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The Subgrantee shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Department or the U.S. Department of Transportation to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of the Subgrantee is in the exclusive possession of another who fails or refuses to furnish this information, the Subgrantee shall so certify to the Department or the U.S. Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the Subgrantee's noncompliance with the nondiscrimination provisions of this agreement, the Department shall impose such sanctions as it or the U.S. Department of Transportation may determine to be appropriate, including but not limited to:
  - withholding of payments to the Subgrantee under the agreement until the Subgrantee complies, and/or
  - cancellation, termination, or suspension of the agreement in whole or in part
6. **Incorporation of Provisions:** The Subgrantee shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Subgrantee shall take such action with respect to any subcontract or procurement as the Department may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Subgrantee becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Subgrantee may request the Department to enter into such litigation to protect the interests of the Department; in addition, the Subgrantee may request the United States to enter into such litigation to protect the interests of the United States.

## **G20. Disadvantaged Business Enterprise**

It is the policy of the U.S. Department of Transportation that Disadvantaged Business Enterprises as defined in 49 CFR Part 26, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. Consequently the Disadvantaged Business Enterprise requirements of 49 CFR Part 26, apply to this agreement as follows:

- The Subgrantee agrees to insure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26, have the opportunity in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, the Subgrantee shall make good faith efforts in accordance with 49 CFR Part 26, to insure that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts and subcontracts.
- The Subgrantee and any subcontractor shall not discriminate on the basis of race, color, national origin, or gender in the award and performance of contracts funded in whole or in part with Federal funds.

These requirements shall be physically included in any subcontract.

Failure to carry out the requirements set forth above shall constitute a breach of this agreement and, after the notification of the Department, may result in termination of the agreement by the Department or other such remedy as the Department deems appropriate.

## **G21. Debarment/Suspension**

The Subgrantee is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension.

The Subgrantee shall require any party to a subcontract or purchase order awarded under this agreement to certify its eligibility to receive federal grant funds, and, when requested by the Department, to furnish a copy of the certification.

## **G22. Signatory Warranty**

The signatory for the Subgrantee hereby represents and warrants that she/he is an officer of the organization for which she/he has executed this agreement and that she/he has full and complete authority to enter into this agreement on behalf of the organization. At the time the signatory for the Subgrantee signs the grant agreement, or within thirty days, he/she will sign a letter designating signature authority by position title for grant-related documents other than the grant agreement or grant agreement amendments. These other grant-related documents will include, but not be limited to, the following: cost assumption plan, application for project extension, administrative evaluation report, requests for reimbursement (RFR), and routine correspondence.

## **G23. Assurances and Certification**

The Subgrantee attests that the assurances included in Attachment C of this agreement and the certification included in Attachment D of this agreement are accurate and current.

## **G24. Intellectual Property**

Intellectual property consists of copyrights, patents, and any other form of intellectual property rights covering any data bases, software, inventions, training manuals, systems design, or other proprietary information in any form or medium.

**Copyrights:** TxDOT, the [other party to the contract], and the federal government reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for government purposes:

- the copyright in any works developed under this agreement or under a subgrant or contract under this agreement; and,
- any rights of copyright to which the [other party to the contract], its subgrantee, or contractor purchases ownership of with financial assistance hereunder.

**Patents:** Rights to inventions made under this agreement shall be determined in accordance with 37 CFR 401. The standard patent rights clause at 37 CFR §401.14 as modified below is hereby incorporated by reference:

- the terms “to be performed by a small business firm or domestic nonprofit organization” shall be deleted from paragraph (g)(1) or the clause;
- Paragraphs (g)(2) and (g)(3) of the clause shall be deleted; and
- Paragraph (1) of the clause entitled “Communications,” shall read as follows: “(1) Communications. All notifications required by this clause shall be submitted to TxDOT.”

If the grant results in the development of any intellectual property as defined in Transportation Code, Section 201.205, the Department and the Subgrantee shall jointly own all the rights, title, and interests in and to all data and other information developed under the grant. Each agency may license, reproduce, publish, modify, or otherwise use and authorize others to use the copyright in any work developed under this grant. All such documents will contain a copyright mark acknowledging this joint ownership. There will not be a charge to either agency for such use.